

**ARKANSAS DEPARTMENT OF HEALTH  
RADIATION CONTROL**

**4815 West Markham Street, Slot H-30  
Little Rock, Arkansas 72205-3867**

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Comments:

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*SONSI Review Complete  
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## Arkansas Department of Health

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4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Mike Beebe

Paul K. Halverson, DrPH, FACHE, Director and State Health Officer

October 20, 2011

Cindy Bladey  
Chief, Announcements and Directive Branch  
Office of Administration  
U.S. Nuclear Regulatory Commission  
Two White Flint North  
11454 Rockville Pike  
Rockville, Maryland 20852

**RE: Docket Number ID: NRC-2011-0164**

Dear Ms. Bladey:

The Radioactive Materials Program of the Arkansas Department of Health would like to submit the following comments concerning the proposed rulemaking for 10 CFR Part 73 entitled "Criminal Penalties for Unauthorized Introduction of Weapons and Sabotage." The Department will not be addressing the questions identified in the *Federal Register Notice (FRN)*.

The Department believes that no action or rulemaking is required for the criminal penalty provisions under Sections 229 and 236 of the *Atomic Energy Act of 1954(AEA)*. Therefore; the Department supports Option 1 as identified in the FRN. In the wake of September 11, 2001, there have been many changes in the criminal penalties associated with possible terrorist activities. If such an event were to occur in Arkansas, a strong Federal and State presence would be on-site before the Radioactive Materials Program arrives. In a possible terrorist event, there are probably stronger more effective Federal criminal penalties than proposed in this rulemaking.

The FRN states "... the variability of State law and consistency of State prosecution are factors that may limit the effectiveness and consistency of these penalties as deterrent strategy." Unless the NRC has reviewed the criminal penalties in the Agreement States, this statement is purely speculative. What if the Agreement States has stiffer criminal penalties for this situation?

The idea that the "consistency of these penalties as a deterrent strategy" is a weak and moot point. Bank robberies occur daily and there are noted and published Federal penalties that seem to have little deterrent effectiveness. A determined individual will do whatever is necessary to accomplish the mission no matter what the deterrents.

The Department concurs with the hospital commenters referenced in the FRN regarding the proposed warning signage. These Warning Signs would be an unnecessary burden to the regulatory community without any obvious benefits. A determined individual will do whatever is necessary to accomplish the mission no matter what the deterrents or what visible warning signs are present.

The Department strongly opposes Option 3 and Option 4. The NRC has worked with the Agreement States for many years to avoid any appearance of "dual regulators". Dual regulators only complicate things for the regulatory community and the Agreement States. Agreement State licensees should be regulated by the Agreement States in all program activities.

Arkansas does not wish to relinquish any authority currently authorized by the AEA to the NRC or any other Federal Agency.

Thank you for the opportunity to comment on this proposed rulemaking. If you have any specific questions, please contact me at 501-661-2173.

Sincerely,



Jared W. Thompson, Program Director  
Radioactive Materials Program

cc: Bernard Beville, Section Chief  
Radiation Control Section

Cheryl Rogers, Chair  
Organization of Agreement States